DATE: May 21, 2003

TO: City Manager for Council Action

FROM: James H. Pope, Director of Electric Utility

SUBJECT: Approval to Include Project Labor Agreement in Construction Project Manuals for the Pico Power Project Construction Contracts

EXECUTIVE SUMMARY:
At its regular meeting on December 2, 2002, City Council directed the City Manager to negotiate a Project Labor Agreement (PLA) for the Pico Power Project (Project) with the state and local building trades councils. The PLA defines a consistent set labor terms that will be used for the Project. The PLA requires contractors to follow the terms of union master agreements and includes no strike and expedited dispute resolution clauses. The form of the agreement is consistent with the City’s prevailing wage policy and other similar project labor agreements used for municipal construction projects. Also, three side letters have been negotiated that refine the scope of the PLA. Black and Veatch, the City’s engineer and construction manager, will execute the PLA on behalf of the City. The State and local building trades councils and individual building trade locals will also sign the agreement. Construction contractors will be required to abide by the terms and conditions of the PLA and side letters. Copies of the PLA and side letters are available in the Council Offices for review.

ADVANTAGES AND DISADVANTAGES OF ISSUE:
The PLA will provide a basis for smooth labor relations during the construction of the Project. Common work rules are defined and no strike and expedited dispute resolution provisions will assist in the timely and economic completion of the Project.

ECONOMIC/FISCAL IMPACT:
No direct costs are associated with the approval and use of the PLA.

RECOMMENDATION:
That Council:
1) approve the Project Labor Agreement for the Pico Power Project and side letters in substantially the form provided; and
2) authorize the City Manager to require construction contractors to be bound by the Project Labor Agreement, subject to final review and approval of the PLA by the Staff and the City Attorney.

APPROVED:

James H. Pope
Director of Electric Utility

Jennifer Sforacino
City Manager

Documents Related to this Report:
1) Pico Power Project Labor Agreement
2) Side Letters
October 30, 2003

VIA FEDERAL EXPRESS

Rol Pfeifer  
Assistant City Attorney  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050

Re: Pico Power Project

Dear Rol:

Enclosed please find the following executed side letters to the Pico Power Project PLA:

1. Side Letter Agreement between Black and Veatch Construction Inc. ("BVCI") and Teamsters Local Union 287;

2. Side Letter Agreement between BVCI and IBEW Local 1245 re: transmission; and


Please let me know if I can be of further assistance.

Sincerely,

John C. Corcoran

JCC/  
Enclosures

cc: Keith Slenkovich, Esq. (w/o encl.)  
Richard Leasia, Esq. (w/o encl.)
July 21, 2003

Douglass O’Neil
Business Manager
Teamster Local 287
1452 N. Fourth ST
San Jose, CA 95112-4778

Dear Mr. O’Neil:

This Side Letter agreement accompanies the Project Labor Agreement between Black and Veatch Construction Inc. and the State Building and Construction Trades Council of California (“Agreement”).

Article 2 of the Agreement does not include the delivery of materials and supplies within the scope of the Agreement. However, the delivery of ready mix, concrete, aggregate and asphalt for the Pico Project will be performed by companies that are signatory to or agree to be bound by a collective bargaining agreement with Teamsters Local Union 287. The provisions of Articles 6, 7, 8, 12, 13, 14, 15, 16 and the Addendum of the Agreement govern and apply to this Side Letter with respect to any work that is not performed in accordance with this Side Letter.

Please indicate your concurrence with the foregoing by executing this Side Letter agreement below.

Black and Veatch Construction Inc.

By: Gregory D. Clum
Manager of Labor Relations

AGREED
Teamsters 287

By: Douglass O’Neil

1342a-011
July 24, 2003

Robert L. Balgenorth
President
State Building & Construction Trade Council of California
1225 8th Street, Suite 375
Sacramento CA 95814

Neil Struthers
Chief Executive Officer
Santa Clara and San Benito Counties Building & Construction Trades Council
2102 Almaden Road, Suite 101
San Jose, CA 95125

RE: Project Labor Agreement for the Pico Power Project

Dear Mr. Balgenorth and Mr. Struthers:

Article 2 of the Pico Power Project Labor Agreement ("Agreement") defines Covered Work under the Agreement as work within the scope of the Engineering and Construction Management Contract between Black and Veatch Construction Inc. ("BVCI") and the Electric Utility of the City of Santa Clara dba Silicon Valley Power ("SVP"). The following items are excluded from BVCI's scope of work: design and installation of the fuel gas line from the PG&E metering station to the compressor and from the compressor high pressure side to a location on the Project site, design and installation of an approximately 1000 foot sewer line, and any utilities associated with the gas and sewer lines (water, air, electrical duct banks, etc.).

Silicon Valley Power will award contracts for the above work. Silicon Valley Power agrees that any contractor who performs construction work on the gas or sewer line will be signatory to, or agree to be bound by, a collective bargaining agreement identified in Section 3.1 of the Agreement or a regional, area or national pipeline construction agreement signed by a Union signatory to the Agreement, such as the
National Pipe Line Agreement or the California Shortline Agreement. Articles 6, 7, 8, 12, 13, 14, 15, 16 and the Addendum of the Agreement shall apply to this Side Letter and shall supersede any conflicting term of any such collective bargaining agreement. Please indicate your agreement with the foregoing by executing this Side Letter below.

Very truly yours,

[Signature]

James H. Pope
Director of Electric Utility

AGREED:

[Signature]

Robert L. Balgenorth, President
California State Building & Construction Trades Council

[Signature]

Neil Struthers, Chief Executive Officer
Building & Construction Trades Council of Santa Clara and San Benito Counties
July 21, 2003

Perry Zimmerman
Business Manager
IBEW Local 1245
P.O. Box 4790
Walnut Creek, CA 94598

Re: Project Labor Agreement for the Pico Power Project

Dear Mr. Zimmerman:

This Side Letter Agreement accompanies the Project Labor Agreement between Black & Veatch Construction Inc. (“BVCI”) and the State Building and Construction Trades Council of California (“Agreement”).

Notwithstanding any provision in the Agreement, the construction of transmission and distribution lines, substations, switchyards and ground grids, and the relocation and undergrounding of 115KV, 60KV and 12KV lines, for the Pico Power Project (“Project”) will be performed by contractors who are signatory or agree to be bound by a collective bargaining agreement with IBEW Local 1245, such as the California Outside Line Agreement. Articles 6, 7, 8, 12, 13, 14, 15, 16 and the Addendum of the Agreement shall govern and apply to this Side Letter and shall supersede any conflicting terms of any Local 1245 Collective Bargaining Agreement. Sections 13.1 and 13.3 of the Agreement shall apply as if there was no reference to the Local or State Building Trades Councils. Section 13.8 of the Agreement shall apply, except notice need not be given to the Local or State Building Trades Councils. Instead, notice under Section 13.8 shall be given to Perry Zimmerman, Business Manager, IBEW Local 1245, PO Box 4790, Walnut Creek, California 94596, telephone number (925) 933-6060. Any jurisdictional dispute between Local 1245 and a Union who is party to the Agreement will be referred to the General Presidents of the Unions involved and the employer for resolution, and shall be subject to Sections 9.3 and 9.5-9.7 of the Agreement.

1342a-010
Please indicate your concurrence with the foregoing by executing this Side Letter agreement below.

BLACK & VEATCH CONSTRUCTION INC.

By: [Signature]
   Gregory D. Clum
   Manager of Labor Relations

AGREED:

IBEW LOCAL 1245

By: [Signature]
Perry Zimmerman
   Business Manager

SF #744682 v1
SVP/ Pico Power Project Transmittal

TO: City Clerk
1500 Warburton, Santa Clara, CA 95050

FROM: Stacy L. Burt
DATE: 07/25/03
PROJECT: Pico Project
PROJECT NO.: 2388

PROJECT:
Pico Project

Transmittal No. 232

Via: Federal Express

For Your Information: Use

The Following

- Drawings
- Change Order
- Review/Comment
- Specification
- Plans
- Other: Original Project Labor Agreement
- Copies
- Samples
- E-mail

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Received By: Bennedetta Dellausa
Date: 7-25-03

Delivered By: Stacy L. Burt
Date: 7-25-03
PROJECT LABOR AGREEMENT
FOR
THE PICO POWER PROJECT
SANTA CLARA, CALIFORNIA
1. **INITIAL PROVISIONS**

1.1. This Project Labor Agreement ("Agreement") is entered into by Black & Veatch Construction, Inc. ("Project Manager") and the State Building and Construction Trades Council of California ("State Building Trades Council") and the Santa Clara and San Benito Counties Building & Construction Trades Council ("Local Building Trades Council") and its affiliated local unions who have executed this Agreement, all of whom are referred to collectively as the "Unions."

1.2. The Pico Power Project (the "Project") is the approximately 147 MW electric generating facility located in Santa Clara County, California which is currently being considered by the California Energy Commission, CEC docket #02-AFC-03. The Project is owned by the City of Santa Clara, California dba Silicon Valley Power ("Owner").

1.3. Project Manager is a company in the business of constructing power plants, including the Project. Project Manager represents and warrants that it is an employer primarily engaged in the construction industry and has the authority to enter into this Agreement.

1.4. For purposes of this Agreement, Contractor means Project Manager and any contractor or subcontractor at any tier who performs work on the Project covered by this Agreement as defined by Article 2.

1.5. The Unions are labor organizations whose members are construction industry employees. Each Union represents that the individual executing this Agreement on its behalf has the authority to enter into this Agreement on behalf of that Union.

1.6. It is understood and agreed by and between the Parties to this Agreement that the final plans for the Project may be subject to modifications and approval by those public agencies possessing lawful approval authority over the Project and that this Agreement applies to the Project as it is finally approved by such entities and agencies.

1.7. A large labor pool represented by the Unions will be required to execute the work involved in the Project. Employers wish, and it is the purpose of this Agreement, to ensure that a sufficient supply of skilled craft workers are available at the Project, that all construction work
and related work performed by the members of the Unions on this Project shall proceed continuously, without interruption, in a safe and efficient manner, economically with due consideration for the protection of labor standards, wages and working conditions.

1.8. In furtherance of these purposes and to secure optimum productivity, harmonious relations between the parties and the orderly performance of the work, the parties to this Agreement agree to establish adequate and fair wage levels and working conditions and to protect the Project against strikes and lockouts and other interference with the process of the work.

1.9. This Agreement has no force or effect, its provisions shall not be operative, and it shall not apply to any project without the express approval of the Santa Clara City Council. Upon approval and designation by the Santa Clara City Council, this Agreement will be included as a requirement of contracts to perform Covered Work (as defined in Section 2.1). This Agreement applies only to Covered Work on the Project. Certain provisions of this Agreement, including the subcontracting provisions, are applicable to the Project, but would not be applicable to a project developed by a private developer. If this Agreement is applied to a project owned by a private rather than a public entity, the terms of the Master Agreement of the Union having geographic and craft jurisdiction over Covered Work shall supersede any differing provisions of this Agreement, including subcontracting, unless the parties negotiate a mutually agreeable labor agreement that provides otherwise.

2. SCOPE OF AGREEMENT

2.1. This Agreement applies to the Project and covers all on-site construction, alteration, painting or repair of buildings, structures and other works and related activities for the Project which are within the craft jurisdiction of one of the Unions and which is directly or indirectly part of the Project and is included in the Project Manager's construction management scope of work, including, without limitation, pipelines, pumps, pump stations, tanks and storage vessels, site preparation, on-site survey work and such soils and material inspection and testing that is typically performed by union members on power generation projects in California.
(excluding testing by civil, mechanical or other licensed engineers whose scope of work is not covered by a collective bargaining agreement of a union signatory to this Agreement), demolition, all on-site fabrication work provided that such work is within the fabrication provision of a local, area or regional agreement under Article 3, and all construction, demolition and/or improvements required to be performed as a condition of approval by any public agency. On-site fabrication work includes work done specifically for the Project in temporary yards or areas at or near the Project. All fabrication work over which Project Manager or a Contractor possesses the right of control, including without limitation, the fabrication of air-handling systems, ducts, and HVAC sheet metal work, and work which is typically performed as on-site fabrication for power plant projects, shall be performed on-site. For the convenience of Project Manager or Contractors, such work may be performed off-site. In that event, such fabrication work shall be performed in accordance with the union standards established by this Agreement for the appropriate craft union or by a fabrication agreement approved by the craft’s International Union. On-site fabrication work as defined in this Article does not include engineered or manufactured piping and equipment that is skid-mounted equipment, including but not limited to pumps, compressors, combustion and steam turbines, boilers and motor control centers. On-site construction shall also include the site of any batch plant constructed solely to supply materials to the Project. This Agreement shall only apply to work performed with respect to the Project and shall have no application to any work performed unrelated to the Project or to any work performed after completion of the construction of the Project. All work to which this Agreement is applied by this Article 2 is referred to as “Covered Work,” unless expressly excluded by another provision of this Agreement.

2.2. This Agreement does not apply to supervisors, technical or nonmanual employees of Contractors and the Project Manager, including, but not limited to, executives, office and clerical employees, supervisors, timekeepers, messengers, guards; or any civil, mechanical or other professional engineers, drafters and inspectors not covered by a collective bargaining agreement of a union signatory to this agreement; or staff employees, plant start-up technicians
and operators and personnel of vendors or their agents or subsidiaries; or any other employees above the classification of general foreman or who perform administrative/clerical functions.

2.3. Work performed by a public utility not under the control of Project Manager or a Contractor, such as work performed by Pacific Gas & Electric Company, Silicon Valley Power or other public utilities falling into this category, is not Covered Work and is excluded from the scope of this Agreement.

2.4. After construction and installation of any system or partial system is completed by Contractors and upon acceptance by the Owner or Project Manager, Owner or Project Manager reserves the right to perform startup, commissioning and operation using persons of its choice. However, system flushes and testing as well as commissioning rework and modifications normally provided as a function of the construction effort, and other work normally provided by members of the Unions, will be performed by members of the Unions.

2.5. Work performed by a manufacturer or its representatives or subsidiaries required to satisfy guarantees or warranties is excluded from the scope of this Agreement.

2.6. Relocation and undergrounding of 115 KV, 60 KV and 12 KV lines is excluded from this Agreement.

2.7. Specialized or technical work requiring specialized training, unique skills, or a level of specific technical experience which employees represented by the Union do not traditionally and customarily possess is excluded from this Agreement. At least ten (10) working days notice shall be given to the Local Building Trades Council before any work is performed pursuant to this subsection 2.7.

2.8. Each signatory Contractor and the Project Manager are acting solely on their own behalf, and have no authority, either expressed, implied, actual, apparent or ostensible, to speak for or bind each other or Owner.

3. CONTRACTING AND SUBCONTRACTING

3.1. Each signatory Contractor (including Project Manager) agrees that it will subcontract Covered Work only to a person, firm, or corporation who is or becomes party to this
Agreement and who is or agrees to become bound for purposes of performing Covered Work, and who performs Covered Work pursuant to: (1) a local multi-employer collective bargaining agreement with the craft Union having traditional and customary jurisdiction over the work, (2) an area agreement with the craft Union having traditional and customary jurisdiction over the work, (3) a regional agreement with the craft Union having traditional and customary jurisdiction over the work, or (4) only in the case of a contractor signatory to a national agreement, a national agreement with the International Union of the craft Union having traditional and customary jurisdiction over the work (collectively “Applicable Agreement(s)”). Examples of national agreements are the National Construction Agreement or any successor, the National Tank Erection Agreement (which may be used solely for on-site tank erection), UBCJA Standard Construction Agreement (SCA #1), or the Cooling Tower Agreement. For purposes of Article 3, the Project Manager will have discretion to select the Applicable Agreement for any scope of work consistent with that Applicable Agreement and the provisions of Article 3. Any Contractor performing Covered Work on the Project shall, as a condition to working on the Project, become bound by and perform all work under the terms of this Agreement and the applicable master, area, regional, or national agreement. Except as provided in this Agreement, the terms of the Applicable Agreement shall apply to the Project. Contractors shall become a party to this Agreement by signing an Employer Agreement to be Bound, which is provided as Appendix A to this Agreement. Project Manager and/or any Contractor who subcontracts Covered Work shall notify the Local Building Trades Council in writing within seven (7) days after it has subcontracted work, and shall at the same time provide to the State Building Trades Council and Local Building Trades Council a copy of the executed Employer Agreement to be Bound (Appendix A). Any Contractor not already bound to an Applicable Agreement, who signs or becomes bound to such a multi-employer, area, regional, or national agreement to participate on this Project, shall not be required to apply the terms of that agreement to any other construction project in which such Contractor is already engaged, or which such Contractor has already been contractually bound to perform.
3.2. Nothing in this Agreement shall in any manner whatsoever limit the rights of the Project Manager or any Contractor to subcontract work or to select its contractors or subcontractors, provided, however, that all Contractors, at all tiers, performing Covered Work shall be required to comply with the provisions of this Agreement. Project Manager and every Contractor shall notify each of its contractors and subcontractors of the provisions of this Agreement and require as a condition precedent to the award of any construction contract or subcontract for Covered Work or allowing any subcontracted Covered Work to be performed, that all such contractors and subcontractors at all tiers become signatory to this Agreement through execution of the Agreement to be Bound. If the Project Manager or any Contractor fails to provide the State Building Trades Council and Local Building Trades Council with the Employer Agreement to be Bound executed by its subcontractor, that party shall be liable for any contributions to any trust funds that the subcontractor, or any subcontractor to that subcontractor, fails to make.

4. WAGES, BENEFITS AND HOURS OF WORK

4.1. Except as provided in this Agreement, all employees covered by this Agreement (including foremen and general foremen) shall be classified and paid wages, other compensation and contributions made on their behalf to multi-employer trust funds, all in accordance with the appropriate local, regional or area agreement ("Master Agreement") as it may be amended, modified or renewed from time to time. No labor agreement for the work covered by this Agreement will apply to employees above the level of General Foreman.

4.2. The parties agree that due to the scope and nature of the Project there is a legitimate business justification to establish uniform work schedules and working conditions for the Project which are set forth below.

4.2.1. Show-up pay shall be paid in accordance with the Master Agreement. If a system of advance notice, subject to approval of the Unions (which approval shall not be unreasonable withheld), is provided to call off the employee, no show-up pay must be provided
by the Contractor. It is within the sole discretion of the Contractor whether to cease work at any time.

4.2.2. Subsistence, travel expenses and travel time shall be paid in accordance with any Master Agreement that provides for them at the time this Agreement is executed. No increases to any such amounts will be effective for the term of this Agreement. Premium pay for welding shall be paid where called for by the Applicable Agreement.

4.2.3. The standard work day shall consist of eight (8) hours of work between 7:00 a.m. and 5:30 p.m. with one-half hour designated as an unpaid period for lunch. The standard work week shall be five (5) consecutive days of work commencing on Monday. Nothing herein shall be construed as guaranteeing any employee eight (8) hours of work per day or forty (40) hours of work per week.

4.2.4. It is recognized by the parties to this Agreement that the standard work week may not be desirable or cost effective, and other arrangements for hours of work will be considered. Such proposed modifications to the standard work week shall be worked out between the Project Manager, Contractors and the Local Building Trades Council.

4.2.5. The first two (2) hours performed in excess of the standard work day Monday through Friday shall be paid at the rate of time and one-half. Compensation for Saturday will be paid in accordance with the appropriate Master Agreement. There shall be no pyramiding of overtime pay. All work performed on Sundays and in excess of ten (10) hours a day shall be paid the overtime rate as stated in the appropriate Master Agreement but not to exceed double the straight time rate of pay.

4.2.6. It will not be a violation of this Agreement when the Project Manager considers it necessary to shut down to avoid the possible loss of human life because of an emergency situation that could endanger the life and safety of an employee. In such cases, employees will be compensated only for the actual time worked. In the case of a situation described above whereby the Project Manager and/or Contractors request an employee to wait in a designated area available for work, the employee will be compensated for the waiting time.
Employees who are not asked to wait in a designated area, but are called back after clocking out, will be paid call back pay in accordance with the Master Agreement.

4.2.7. When shifts are required, compensation for shifts will be paid in accordance with the appropriate Master Agreement. If only two shifts are to be worked, the Project Manager and/or Contractors may regulate starting times of the two shift operation to permit the maximum utilization of daylight hours. Shifts shall be established and continued for a minimum of three (3) consecutive work days.

4.2.8. Recognized holidays shall be as follows: New Year’s Day, Martin Luther King Day, Presidents’ Day, Memorial Day, Fourth of July, Labor Day, Veterans’ Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. Under no circumstances shall any work be performed on Labor Day except in cases of emergency involving life or property. In the event a holiday falls on Sunday, the following day, Monday, shall be observed as such holiday. In the event a holiday falls on Saturday, the previous day, Friday, shall be observed as such holiday. There shall be no paid holidays. If employees are required to work on a holiday, they shall receive the appropriate rate; but in no case shall such overtime rate be more than double the straight time rate.

4.3. The Parties agree that this Agreement provides for wages and benefits consistent with California prevailing wage law. The Unions agree that any dispute concerning the appropriate wage rate for Covered Work under this Agreement should be resolved solely under the grievance procedure provided in Section 8.3 of this Agreement, and that the Unions, and each of them, will not seek to resolve any issue over the applicable wage rate in any other forum, including but not limited to the California Department of Industrial Relations.

5. **PAYMENT OF WAGES – CHECKING IN AND OUT**

5.1. Wages will be paid weekly on a designated day during working hours and in no case shall more than three (3) days pay be held back in any payroll week.

5.2. Employees shall be at their place of work and ready to work at the starting time (which is the gang box, toolbox or place where the foreman gives instructions to employees). A
reasonable time will be allowed for employees to put company and personal tools in secured storage and return to the parking lot by quitting time. The parties agree that based upon staffing estimates at the time this Agreement is entered, ample parking will be provided if at least one hundred fifty (150) parking spaces are available within one-quarter (1/4) mile of the Project. In the event that such parking is unavailable, or staffing levels on the project result in a shortage of available parking, bussing will be available. In that case, the Project Manager and the Local Building Trades Council will negotiate the applicable terms. The Project Manager may locate the brass alley at the entrance to the Project. The Project Manager may utilize brassing, time clocks or other systems to check employees in and out. Each employee must check himself in and out. The Project Manager will provide adequate facilities for checking in and out in an expeditious manner.

5.3. There will be no organized rest periods, coffee breaks, or other non-working time established during working hours on the Project. Employees shall be afforded time to take rest periods for food and drink. Time at a rate of ten (10) minutes net rest time for every four (4) hours worked, or a major fraction thereof will be provided. Rest periods shall not interfere with the normal flow of work, and shall be taken in the employee’s immediate work area. Project Manager and the Unions agree that this paragraph provides equivalent protection to that afforded by California Wage Order No. 16.

6. **UNION RECOGNITION**

6.1. The Contractors recognize the Unions signatory to this Agreement as the sole and exclusive collective bargaining agents for their respective construction craft employees performing Covered Work for the Project, and further recognize the traditional and customary craft jurisdiction of each Union.

6.2. All employees performing Covered Work shall be or shall become and then remain members in good standing of the appropriate Union as a condition of employment on or before the eighth (8th) day of employment, or the eighth (8th) day following the execution of this Agreement, whichever is later.
6.3. The Unions shall be the primary source of all craft employees for Covered Work on the Project. Except as provided above and in Section 11.1.2, Contractors agree to be bound by the hiring practices of the respective Unions, including the hiring of apprentices, and to utilize their registration facilities and referral systems. The Contractor(s) shall have the right to reject any applicant referred by the Union(s).

6.4. In the event the referral facilities maintained by the Unions do not refer the employees as requested by a Contractor within a forty-eight (48) hour period after such request is made by Contractor (Saturdays, Sundays and Holidays excepted), Contractor may employ applicants from any source.

6.5. The Unions shall exert their utmost efforts, including requesting assistance from other local unions, to recruit a sufficient number of skilled craft workers to fulfill the labor requirements of the Contractors. The State Building Trades Council and the Local Building Trades Council agree that if the Project Manager or any Contractor determines that it cannot obtain sufficient qualified employees from the appropriate hiring hall, that they will meet and confer with the Project Manager and/or Contractor upon request to resolve this issue. Such meeting will occur within five (5) working days of any written request.

6.6. Each Union shall use its best efforts to supply employees from all job classifications for the Project.

6.7. The parties recognize the Owner’s interest in providing opportunities to participate on the Project to entities that may not have previously had a relationship with the Union(s) signatory to this Agreement. To ensure that such entities will have an opportunity to employ their “core” employees on this Project, the parties agree that in those situations where a Contractor not a party to an Applicable Agreement with a signatory Union having jurisdiction over Covered Work is a successful bidder, that Contractor may request by name, and the local Union(s) will honor, referral of persons who have applied to the local Union(s) for Project work and who meet the following qualifications:
(1) Possess any license required by State or Federal law for the Covered Work to be performed;

(2) have a total of at least 1,000 hours of construction craft experience during the prior three years;

(3) were on the Contractor's active payroll for at least 90 of 120 calendar days prior to the contract award; and

(4) have the ability to perform safely the functions of the applicable trade.

The Unions will refer to such Contractor one employee from the hiring hall out of work list for each affected craft, and will then refer one of the Contractor's "core" employees as defined above. The process then will be repeated, one and one, until the Contractor has hired the greater of the following: three (3) "core" employees or 15% of the employees per Contractor, by craft, employed by the Contractor to perform work on the Project. Any fraction shall be rounded to the next highest whole number.

7. STRIKES AND LOCKOUTS

7.1. During the term of this Agreement, the Unions, their agents, representatives, employees and persons acting in concert with them agree that they shall not incite, encourage, condone or participate in any strikes, walkouts, slow downs, sit-downs, stay-ins, boycotts, sympathy strikes, sick outs, refusals to refer employees, picketing, hand billing where the hand billing relates to Contractors or Project Manager and their activities or operations at the Project, work stoppages or other disruptive activity regarding the Project, and it is expressly agreed that any such action is in violation of this Agreement. For purposes of the no strike provisions of this Agreement, Project Manager shall be read to include its partners, parent entities, subsidiaries and affiliates, including, but not limited to, the Owner. In the event of a violation of this provision, Project Manager or any Contractor shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the part of the Union(s), and/or any of its agents, representatives or employees.
7.2. Upon written facsimile notice of a violation to the local Union(s) and their officers, and their agents, representatives, employees and persons acting in concert with them, shall take immediate action and will use their best efforts to prevent, end or avert any such aforementioned activity or the threat thereof by any of its officers, members, representatives or employees, either individually or collectively, including but not limited to, publicly disavowing any such action and ordering all such officers, representatives, employees or members who participate in such unauthorized activity to cease and desist from same immediately and to return to work and comply with its orders. Nothing in this Agreement shall be construed to limit or restrict the right of any of the parties to this Agreement to pursue fully any and all remedies available under law in the event of a violation of this Article 7.

7.3. Neither Project Manager nor any Contractor shall incite, encourage or participate in any lockout or cause to be locked out any employee covered under the provisions of this Agreement. The term “lockout” does not refer to the discharge, termination or layoff of employees by any Contractor for any reasons in the exercise of its rights as set forth in any provision of this Agreement, nor does “lockout” include a decision by Project Manager or any Contractor to terminate or suspend work on the site or any portion thereof for any reason other than a labor dispute.

7.4. Any employees violating Section 7.1 above are subject to discipline up to and including discharge. Employees discharged for violation of this Article 7 will not be referred by a Union for work on the Project. Such employees may invoke the grievance procedures of the Applicable Agreement.

7.5. Notwithstanding the provisions of Section 7.1, it is agreed that a Union retains the right to withhold the services of its members from a particular Contractor or subcontractor who fails to make timely payments to the Union’s benefit plans, or fails to timely pay its weekly payroll, in accordance with the Master Agreements; provided, in the event the Union or any of its members withholds their services from such Contractor or subcontractor, Project Manager shall have the right to replace such Contractor or subcontractor with any other Contractor or
subcontractor who executes the Agreement To Be Bound. No Union(s) shall withhold the services of its members under this provision without first giving the Project Manager and the individual Contractor alleged to be delinquent in its payments at least five (5) business days’ notice, in the case of payroll delinquencies, and 10 business days’ notice, in the case of benefit fund delinquencies, and an opportunity to cure the delinquency by tendering payment to the relevant employees or trust funds.

7.6. In lieu of, or in addition to, any other action at law or equity, any party may institute the following procedure when a breach of Article 7 is alleged, after the Union(s) and local union(s), or Project Manager and Contractor, as appropriate, has been notified of the fact.

7.6.1. The party invoking this procedure shall, at their option, notify the permanent Arbitrator under this procedure, Norman Brand. In the event that the permanent Arbitrator is not available, the American Arbitration Association shall select an alternative Arbitrator within twenty-four (24) hours of notice. Notice to the Arbitrator and other parties shall be by the most expeditious means available, with notice by facsimile or any other effective written means, including electronic mail if available. Such notice shall be provided to the party alleged to be in violation, and to the involved International Union President and local union or the Project Manager and Contractor, as appropriate.

7.6.2. Upon receipt of said notice the Arbitrator named above shall set and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists.

7.6.3. The Arbitrator shall notify the parties by facsimile or any other effective written means, including electronic mail if available, of the place and time chosen for the hearing. Said hearing shall be completed in one session. A failure of any party or parties to attend said hearing shall not delay the hearing of evidence or issuance of an award by the Arbitrator.

7.6.4. The sole issue at the hearing shall be whether or not a violation of Article 7 has in fact occurred. The Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation. The award shall be issued in writing.
within three (3) hours after close of the hearing, and may be issued without an opinion. If any party desires an opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the award. The Arbitrator may order cessation of the violation of this Article 7, and such award shall be served on all parties by facsimile or electronic mail and registered mail upon issuance.

7.6.5. At any time before the matter is submitted for a decision or award on the merits, the grieving party has the right to withdraw the grievance without prejudice.

7.6.6. The award shall be final, binding and nonreviewable as to the merits. Such award may be enforced by a court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to above in the following manner. Electronic and/or facsimile notice of the filing of such enforcement proceedings shall be given to the other party. In the proceeding to obtain a temporary order enforcing the Arbitrator’s award as issued under Section 7.6.4, all parties agree to waive the right to a hearing and agree that such proceedings may be ex-parte. Such agreement does not waive any party’s right to participate in a hearing for a final order of enforcement. The court’s order or orders enforcing the Arbitrator’s award shall be served on all parties by hand, or by delivery to their last known address by express or registered mail.

7.6.7. Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance therewith are hereby waived by the parties to whom they accrue.

7.6.8. The fees and expenses of the Arbitrator shall be borne by the party or parties found in violation, or in the event no violation is found, such fees and expenses shall be borne by the party invoking this arbitration procedure.

7.6.9. If the Arbitrator determines that a work stoppage has occurred in accordance with Section 7.6.4 above, the Union(s) and its applicable local union shall, within four (4) hours of receipt of the award, direct all of the employees it represents on the Project to immediately return to work. The applicable local union shall provide the Company with copies
of any written material it provides to employees it represents directing employees to return to work or, if such direction is provided orally, shall provide the Company with a faxed notice describing the direction given to employees and a description of how that direction was provided. If the Union(s) and are found to have violated Section 7.1 or Section 7.2, then that Union(s) shall pay the sum of ten thousand dollars ($10,000.00) as liquidated damages to Project Manager for each shift for which a violation has occurred, and for which the trade has not returned to work following the initial violation. For subsequent violations by the same Union, said Union shall pay the sum of fifteen thousand dollars ($15,000.00) as liquidated damages to the Project Manager for each shift for which the trade has not returned to work as a result of that subsequent violation. The Arbitrator shall retain jurisdiction to determine compliance with Section 7.1.

7.7. In the event that any Applicable Agreement expires and the parties to that Agreement fail to reach agreement on a new contract by the date of expiration, the Union(s) shall continue to provide employees to the Contractors working on the Project under all the terms of the expired Applicable Agreement until a new Applicable Agreement is negotiated, at which time all terms and conditions of that new Applicable Agreement shall be applied to Covered Work at the Project, except to the extent they conflict with any provision of this Agreement or other agreement applicable to the Project under Section 3.1. In addition, if employees continued working on the Project under the expired labor agreement during the hiatus, and the new labor agreement provides for retroactive wage or benefit increases, then any Contractor shall pay to its employees who performed Covered Work at the Project during the hiatus between the effective dates of such labor agreements an amount equal to any such retroactive wage and benefit increases established by the new labor agreement for such work.

8. GRIEVANCE PROCEDURE

8.1. It is mutually agreed that any question arising out of and during the term of this Agreement involving its interpretation and application (other than jurisdictional disputes or certain safety disputes) as defined below) shall be considered a grievance. Except as provided
herein, any grievances involving interpretation and application of the PLA will be governed by the PLA’s grievance procedure as set forth below. Where a grievance against a contractor is solely under one Master Agreement or national agreement, the procedure for that agreement will apply. In cases where the procedures of more than one agreement are triggered for the same dispute by grieving trades, the PLA grievance procedure will preempt all others for resolution of the dispute.

8.2. A grievance shall be considered null and void if not brought to the attention of the Contractor within five (5) working days after the incident which initiated the alleged grievance occurred or was discovered.

8.3. Grievances shall be settled according to the following procedure:

- **Step 1.** The steward and the grievant shall attempt to resolve the grievance with the Contractor’s supervisor.

- **Step 2.** In the event the matter remains unresolved in Step 1 above, within five (5) working days after notice to the Union(s), the alleged grievance, in writing, may then be referred to the Business Manager of the Craft Union and the Labor Relations representative of the Contractor for discussion and resolution. A copy of the written grievance shall also be mailed/faxed to the Project Manager as identified in Section 13.8.

- **Step 3.** In the event the matter remains unresolved in Step 2 above, within five (5) working days, the alleged grievance, in writing, may then be referred to the applicable representative of the Craft Union involved and the Manager of Labor Relations of the Contractor of the Manager’s designated representative and the Project Manager as identified in Section 13.8 for discussion and resolution.

- **Step 4.** If the grievance is not settled in the preceding steps within five (5) working days, either party may request the dispute be submitted to arbitration or the time may be extended by mutual consent of both parties. The request for arbitration and/or the request for an extension of time must be in writing with a
copy to the Project Manager. An Arbitrator selected from a permanent panel of Arbitrators consisting of Claude Dawson Ames, Barbara Chvany, Joseph Grodin and will hear grievances filed pursuant to this Article. Should the parties be unable to mutually agree on the selection of an Arbitrator from among those on the panel, selection for that given arbitration shall be made by alternately striking names from the list of names on the panel until the parties agree on an Arbitrator or until one name remains. The first party to strike a name from the list shall alternate between the party bringing forth the grievance and the party defending the grievance. The Project Manager shall keep a record of the sequence and shall notify the parties to the grievance as to which party has the right to strike a name first. In the event the last remaining Arbitrator is not available in a reasonable time to hear the grievance and the parties have not mutually agreed to extend the time for arbitration, the last stricken Arbitrator will be selected. A reasonable time is defined as thirty (30) days.

8.4. The Arbitrator’s decision shall be submitted in writing and shall be final and binding on all parties signatory to this Agreement. The expense of arbitration, including the cost of the Arbitrator and the cost of necessary expenses required to pay for facilities for the hearing of cases, shall be borne equally by both parties. The Arbitrator’s decisions shall be confined to the question posed by the grievance and the Arbitrator shall not have authority to modify, amend, alter, add to or subtract from, any provision of this Agreement. Any dispute over which multi-employer agreement is the applicable agreement to the relevant craft Union or what constitutes said agreement will not result in any economic damages or back-pay; and any relief rendered by a court or other tribunal of competent jurisdiction will be prospective only from the date of judgment.

9. **JURISDICTIONAL DISPUTES**

9.1. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan
for the Settlement of Jurisdictional Disputes in the Construction Industry (the “Plan”) or any successor Plan.

9.2. All jurisdictional disputes between or among the Building and Construction Trades Unions and their employees, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

9.3. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor’s assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

9.4. Each Contractor, upon award of a contract, shall conduct a pre-job conference with the Local Building Trades Council prior to commencing work. The Contractor shall notify the Local Building Trades Council of the contract award and to schedule a pre-job conference with the signatory Unions. At the pre-job conference, the Contractor shall outline and discuss, in detail, the scope of work in the contract and the specific jurisdictional assignments of work designating the craft(s) to be used to perform the work, as required by the Plan. The Project Manager will be advised in advance of all such conferences and may participate if they wish.

9.5. In case of a jurisdictional dispute involving a Union or Unions not party to the Plan or this Agreement, such dispute will be referred to the General Presidents of the Unions involved and Project Manager for resolution.

9.6. Any award or resolution under Article 9 shall be prospective and shall not require any back pay or other relief for work performed.

9.7. This Article 9 shall be enforceable in any court of competent jurisdiction, and shall not be subject to any grievance procedure of this Agreement or any other agreement.
10. **JOINT LABOR/MANAGEMENT MEETINGS**

10.1. During the period of any work performed under this Agreement, a joint labor/management meeting will be held between the Project Manager, the Santa Clara and San Benito Building and Construction Trades Council, and Contractors on a monthly basis or more frequently as needed. The purpose of these meetings is to promote harmonious labor/management relations, ensure adequate communications and advance the proficiency and efficiency of the craft workers and Contractors performing work on the Project. These monthly (or more frequent) meetings will also include discussion of the scheduling and productivity of work performed on the Project.

10.2. Prior to commencement of the Covered Work, the Project Manager, in coordination with the Santa Clara and San Benito Building and Construction Trades Council and signatory Unions, will conduct a meeting and provide an overview of the project, introduce key Project personnel, review anticipated contract packages, anticipated work schedule, estimated manpower requirements, safety and security regulations as well as other pertinent project information.

11. **MANAGEMENT RIGHTS**

11.1. Project Manager and Contractors retain full and exclusive authority for the management of their work forces for all work performed under this Agreement. This authority includes, but is not limited to, the right to:

11.1.1. Plan, direct and control the operation of all the work.

11.1.2. Decide the number and types of employees required for the work in accordance with the Master Agreement, provided, however, that Contractors shall have the right to assign key employees to the Project in accordance with the appropriate local, area or regional Agreement or local customs or practices, whichever afford the greatest flexibility. Key employees are defined as craft employees who possess special skills or abilities.

11.1.3. Hire, promote and layoff employees as deemed appropriate to meet work requirements and/or skills required, and to select and hire directly all supervisory personnel
above the classification of general foreman it considers necessary and desirable, without such persons being referred by the Union(s).

11.1.4. Contractors and the Project Manager have the right to implement reasonable Project Rules and Security, Environmental and Safety Regulations consistent with the provisions of this Agreement, to implement Conditions of Certification imposed by the California Energy Commission, and to require all employees to observe said Project Rules and Regulations and Conditions of Certification. These Rules and Regulations and Conditions of Certification shall be supplied to the Unions, to all employees, and posted on the job site. A violation of the Project Rules and Regulations is just cause for disciplinary action up to and including termination, subject to the applicable grievance procedure.

11.1.5. Determine the work methods and procedures.
11.1.6. Determine the competency of all employees.
11.1.7. Assign and schedule work at its sole discretion and determine when overtime will be worked. There shall be no refusal by a craft to perform work assigned, including overtime work.

11.1.8. All parties agree that chronic and/or unexcused absenteeism is undesirable and must be controlled. As such, any employee terminated for such absenteeism shall not be eligible for rehire on the Project for a period of no less than ninety (90) days.

11.1.9. Utilize any work methods, procedures or techniques and select and use any type or kind of materials, apparatus or equipment regardless of source, manufacturer or designer (subject to Article 2), and to assign, subcontract (subject to Article 3) and schedule work at its discretion.

11.1.10. The Unions understand the extreme importance of maintaining construction quality and maintaining the construction schedule. The Unions also understand that construction errors or delays in construction result in the loss of production, which creates a great loss to Project Manager. Therefore, the Unions will encourage and advise the employees to exhaust every effort, ways and means to perform work of good quality and quantity. The parties
recognize the necessity for eliminating restrictions and promoting efficiency and agree that no
rules, customs or practices, other than those provided in the Master Agreement, shall be
permitted that limit production or increase the time required to do the work, and no limitation
shall be placed upon the amount of work which an employee shall perform, nor shall there be
any restrictions against the use of any kinds of machinery, tools or labor-saving devices. No rule
or regulation shall be adopted that compromises employee safety. Nothing in this Agreement
shall require any employee to engage in an unsafe work practice. The Contractor may utilize the
most efficient methods or techniques of construction, tools or other labor saving devices to
accomplish the work.

11.2. There shall be no limit by the Unions as to the ratio of journeyperson to welders.

11.3. The employees covered by the terms of this Agreement shall at all times while in
the employ of the Project Manager and/or Contractors be bound by the safety rules and
regulations as established by the Project Manager, Contractors and applicable Safety Laws. The
parties to this Agreement do hereby recognize the need to provide a drug-free and alcohol-free
workplace. The parties to the Agreement agree to comply with any agreed upon substance abuse
program. In order to produce as safe a workplace as possible, it is understood and agreed that the
Project Manager, Contractors and employees shall abide by the rules and provisions of the
implemented substance abuse program which may include the following types of testing:
pre-employment, reasonable suspicion, and post accident. Any alleged discriminatory practice
under this Article shall be subject to the grievance procedure. All substance abuse programs
shall be agreed upon by the Local Building Trades Council prior to implementation.

11.4. The Project Manager and/or Contractors shall have the right to implement bonus
or incentive programs approved by the Local Building Trades Council, which approval shall not
be unreasonably withheld.

11.5. The foregoing enumeration of management rights shall not be deemed to exclude
other functions not specifically set forth herein. Project Manager and Contractors shall at all
times retain all management rights which may exist at law or by custom and which are not specifically limited or prohibited by the terms of this Agreement.

12. SUCCESSORSHIP

12.1. The obligations in Section 3.1 are independent obligations of Project Manager and so shall survive termination of a contract, if any, between Project Manager and Owner for any covered work on the Project or the sale of all or any portion of the Project by any Owner. This Section shall be enforceable in any court of competent jurisdiction, and shall not be the subject of any grievance procedure in any collective bargaining agreement.

13. GENERAL PROVISIONS

13.1. If any article or provision of this Agreement shall be declared invalid, inoperative, or unenforceable by any competent authority of the executive legislative, judicial or administrative branch of the federal, state or local government, Project Manager and its Contractors, the Councils and the Unions shall suspend the operation of such article or provisions during the period of its invalidity and shall substitute by mutual consent, in its place and stead, an article or provision which will satisfy the objections to its validity and which, to the greatest extent possible, will be in accord with the intent and purpose of the article or provision in question. The provisions of Article 7, No Strikes/No Lockouts shall be in full force and effect during negotiation of any such language and for the full term of this Agreement.

13.2. If any article or provision of this Agreement shall be held invalid, inoperative or unenforceable by operation of law, or by any of the above mentioned tribunals of competent jurisdiction, the remainder of the Agreement or application of such article or provision to persons or circumstances other than to which it has been held invalid, inoperative or unenforceable shall not be affected thereby.

13.3. It is mutually agreed that any liability under this Agreement by Project Manager, any Contractor, the State Building Trades Council or Local Building Trades Council, or any Union shall be several and not joint. Any alleged breach of this Agreement by a party shall not
affect the rights, liabilities, obligations and duties among the other parties or between that party and any other party.

13.4. This Agreement is formed and shall be construed under the laws of the United States and the State of California. Any disputes arising under this Agreement shall be brought and heard in Santa Clara County, California or in the San Jose division of the United States District Court for the Northern District of California or administrative tribunal with jurisdiction over Santa Clara County, unless the parties otherwise agree.

13.5. Wherever there is a conflict between this Agreement and any Applicable Agreement, the provisions of this Agreement supersede any contrary provisions in such Applicable Agreement.

13.6. Each person executing this Agreement represents and warrants that he or she is authorized to execute this Agreement on behalf of the party or parties indicated.

13.7. This Agreement may be executed in counterparts.

13.8. Any notices required under this Agreement shall be given as indicated below. Either party may, in its sole discretion, designate in writing any new persons to receive said notices during the term of this Agreement.

To the Project Manager:

Gregory D. Clum
Manager of Labor Relations
Black & Veatch Construction, Inc.
11401 Lamar
Overland Park, KS 66211
Telephone: 913-458-7784

To the State Building Trades Council:

Robert L. Balgenorth, President
State Building and Construction Trades Council of California
1225 8th Street, Suite 375
Sacramento, CA 95814
Telephone: 916-443-3302
To Owner:

Les Ward  
Project Manager  
Silicon Valley Power  
1601 Civic Center Drive  
Suite 202A  
Santa Clara, CA 95050  
Telephone: 408-261-5363

With copies to:

Charles S. Birenbaum, Esq.  
Thelen Reid & Priest LLP  
101 Second Street  
San Francisco, CA 94105  
Telephone: 415-371-1200

To the Local Building Trades Council:

Neil Struthers  
Santa Clara & San Benito Counties Bldg. & Construction Trades Council  
2102 Almaden Road  
Suite 101  
San Jose CA 95125-2190

With copies to:

Marc D. Joseph, Esq.  
Adams Broadwell Joseph & Cardozo  
651 Gateway Boulevard, Suite 900  
South San Francisco, CA 94080  
Telephone: 650-589-1660

14. NON-DISCRIMINATION

14.1. Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, disability, national origin, age, religion, Vietnam veteran, or Vietnam era status, or any other basis prohibited by law. The parties also agree that no person shall be subject to unlawful harassment on any basis prohibited by law, including sexual or racial harassment.

14.2. The responsible Union(s) will indemnify and hold harmless Project Manager and all contractors on the Project for any liability attributed to that Union(s) for violating the laws, regulations and policies that prohibit discrimination or harassment. Likewise, Project Manager, if it is held responsible, or the responsible Contractor(s) on the Project will indemnify and hold harmless the effected Union(s) for any liability attributed to Project Manager or a Contractor(s) for violating the laws, regulations and policies that prohibit discrimination or harassment.

14.3. Where adherence to a provision of a collectively bargained agreement would conflict with any order, regulation or law enforcing discrimination laws from any competent authority of the executive, legislative, judicial or administrative branch of the federal, state or
local government, this said order, regulation or law will superecede the conflicting provision of this Agreement.

14.4. The Unions and Project Manager agree that nothing in this Agreement or any Applicable Agreement will prevent the reasonable accommodation of a person with a disability, and that Project Manager and any of its Contractors, in their sole discretion, may provide any such accommodation required by law. Such accommodations include, but are not limited to, providing light duty assignments to employees even though such positions may be generally reserved for an employee with greater seniority.

15. ANTI-REDLINING

15.1. There shall be no redlining of the Project in any multi-employer collective bargaining agreement by singling out, either by name or by effect, this Project for more onerous wages, benefits or working conditions than are generally accorded other industrial projects in the same general geographic area.

16. TERM OF AGREEMENT

16.1. The term of this Agreement shall commence on the date indicated below as the date of execution, and shall continue in effect until completion of all Covered Work pursuant to Article 2. Covered Work shall be deemed completed upon “final acceptance” of the Project by the Owner.

16.2. In the event that the Application for Certification submitted to the California Energy Commission for the Project is withdrawn and the Application proceeding is terminated pursuant to 20 CCR § 1709.8, or the Application is denied by the California Energy Commission and the time periods for reconsideration under Public Resources Code § 25530 and appeal of the denial under Public Resources Code § 25531 have expired with no reconsideration granted or appeal sought, Project Manager may notify the State Building Trades Council and the Local Building Trades Council and terminate this Agreement.

16.3. In the event construction of the Project is not commenced prior to the final deadline, without right of extension, for the commencement of construction established by the
California Energy Commission, and prior to final expiration, without right to renew, of the
authority to construct permit from the Bay Area Air Quality Management District, Project
Manager may notify the State Building Trades Council and the Local Building Trades Council
and terminate this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed and
effective as of May 20, 2003.

BLACK & VEATCH CONSTRUCTION,
INC.

By: Gregory D. Clum
Manager of Labor Relations

STATE BUILDING & CONSTRUCTION
TRADES COUNCIL OF CALIFORNIA

By: Robert L. Balgenorth
President

SANTA CLARA AND SAN BENITO
COUNTIES BUILDING & CONSTRUCTION
TRADES COUNCIL

By: Neil Struthers, Chief Executive Officer
TEAMSTERS LOCAL UNION 287

By: [Signature]

UNITED ASSOCIATION, PLUMBERS & FITTERS LOCAL UNION 393

By: [Signature]

UNITED ASSOCIATION, SPRINKLER FITTERS LOCAL UNION 483

By: [Signature]
ADDENDUM

The Unions, the Project Manager and the Owner agree that the timely and efficient completion of the Pico Power Project is essential to the continued economic vitality of the City and to the health and well-being of its inhabitants. The Pico Power Project must be completed on schedule to provide needed replacement power as current power purchase contracts are reduced or expire. The Pico Power Project will assist the Owner's customers who are not yet operating at full capacity meet power demand. The Pico Power Project will also provide Silicon Valley Power and the City of Santa Clara more control over electric and fuel resources, relieve current congestion problems on existing Bay Area transmission lines and reduce transmission charges. Both the gas and electrical systems for the Pico Project are built to meet stringent industry and governmental standards, and all potentially hazardous materials will be limited in size and securely contained above ground. Through efficient and timely construction of generation resources for its operation and control, Silicon Valley Power will be protected from the uncertainties of the wholesale electric market, thus assuring an adequate supply of reliable, less-costly electricity.

For all of these reasons, the Unions, their agents, representatives, employees and persons acting in concert with them, agree to support the successful permitting of the Project, and that they will not engage in any actions before any administrative agency or other entity in proceedings considering permitting the Project that may adversely affect the successful permitting of the Project. The Unions further agree not to assist, support or collaborate with any entity engaged in such conduct. In the event of a violation of this Addendum, Project Manager or Owner shall be entitled to seek relief in court, specifically including injunctive relief, to restrain any such action on the part of the Unions, and/or any of its agents, representatives or employees. Project Manager or Owner may also seek relief under the expedited arbitration provisions contained in Section 7.6 of the Agreement.

Where there is an actual or threatened violation of this Appendix concerning interference with certification or permitting of the Project, the grieving party is free to pursue any additional available remedies in addition to use of the procedure set forth in Section 7.6 of the Agreement. Any award under section 7.6 requiring withdrawal or cessation of activities at an administrative agency or governmental entity shall also require that any correspondence or filings necessary to effectuate the same will be jointly agreed upon by the parties, and that there shall be no retaliation against the Owner, Project Manager, or any other affiliated person or entity for any party's decision or role in application of this Appendix. The Arbitrator shall retain jurisdiction to address any issues that arise under this subsection, including resolution of disputes concerning correspondence and filings necessary to effectuate the award.
APPENDIX A
AGREEMENT TO BE BOUND
PROJECT LABOR AGREEMENT

The undersigned, as a contractor or subcontractor (hereafter "Contractor") on the Pico Power Project, (hereafter "Project"), subject to the Project Labor Agreement (hereafter "Agreement"), for and in consideration of the award to it of a contract to perform work on said Project, and in further consideration of the promises made in the Agreement and all attachments a copy of which was received and is acknowledged, hereby:

1.) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all amendments and supplements now existing or which are later made thereto only for the duration and scope of the Contractor's work on the Project.

2.) The Contractor agrees to be bound by the legally established trust agreements designated in local master collective bargaining agreements. The Contractor authorizes the parties to such local trust agreements to appoint trustees and successor trustee to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

3.) Certifies that it has no commitments or agreements which would preclude its full and complete compliance with the terms and conditions of said Agreement.

4.) Agrees to secure from any Contractor(s) (as defined in said Agreement) which are or become a subcontractor (of any tier) to it, a duly executed Agreement to be Bound in a form identical to this document.

DATED: ______________  Name of Contractor  ________________________________  

(Authorized Officer & Title)